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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In the Matter of:

FOREIGN ECONOMIC INDUSTRIAL BANK                      Lead Case No.  
LIMITED, "VNESHPROMBANK" LTD., AND                      16-13534-mg  
STATE CORPORATION "DEPOSIT INSURANCE  
AGENCY",

Debtors.

- - - - -x

In the Matter of:

LARISA IVANOVNA MARKUS AND                      Main Case No.  
YURI VLADIMIROVICH ROZHKOV,                      19-10096-mg

Debtors.

- - - - -x

ROZHKOV,

Plaintiff,                      Adv. Proc. No.

v.                      19-01413-mg

LARMAR FOUNDATION, et al.,

Defendants.

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YURI ROZHKOV AND THE STATE CORPORATION DEPOSIT INS,  
Plaintiff, Adv. Proc. No.  
v. 19-01414-mg  
LARMAR FOUNDATION, et al.,  
Defendants.

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United States Bankruptcy Court  
One Bowling Green  
New York, New York

April 6, 2020  
10:00 AM

B E F O R E:  
HON. MARTIN GLENN  
U.S. BANKRUPTCY JUDGE

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16-13534-mg Foreign Economic Industrial Bank Limited, "Vn and  
State Corporation "Deposit Insurance Agency &q Ch. 15  
Doc #194 Case Management Conference.

19-10096-mg Larisa Ivanovna Markus and Yuri Vladimirovich  
Rozhkov Ch. 15  
Doc# 247 Case Management Conference.

Adversary proceeding: 19-01413-mg Rozhkov v. LARMAR Foundation  
et al  
Doc# 10 Case Management Conference.

16-13534-mg Foreign Economic Industrial Bank Limited, "Vn and  
State Corporation "Deposit Insurance Agency&q  
Adversary proceeding: 19-01414-mg Yuri Rozhkov and The State  
Corporation Deposit Ins. v. LARMAR Foundation et al  
Doc# 10 Case Management Conference

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A P P E A R A N C E S:

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BY: DANIEL A. SINGER, ESQ. (TELEPHONICALLY)

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LAW OFFICE OF VICTOR A. WORMS

Attorney for Larisa Markus

65 Broadway

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New York, NY 10006

BY: VICTOR A. WORMS, ESQ. (TELEPHONICALLY)

1 P R O C E E D I N G S

2 THE COURT: All right. This is Judge Glenn. We're  
3 here in two Chapter 15 cases, Foreign Economic Bank Limited,  
4 16-13534, and Larisa Markus, 19-10096, and in two adversary  
5 proceedings, Rozhkov v. LARMAR, et al., 19-01413, and 19-01414.

6 May I have the appearances of counsel please? First  
7 for the Foreign representatives?

8 MR. MARKS: Your Honor, this is Bruce Marks. I  
9 represent the Deposit Insurance Agency, as a foreign  
10 representative for Vneshprombank, and I represent Mr. Rozhkov  
11 as the trustee for Ms. Markus.

12 I believe on the line we have Nina Khan of my office,  
13 and I'm hopeful that Sergey Sokolov of our Moscow office is  
14 also on the line.

15 THE COURT: Yes, I see that he's joined, as well. All  
16 right.

17 And for Mr. Worms, and Mr. Singer, could you make your  
18 appearances please? First Mr. Singer?

19 MR. SINGER: -- Protax entities.

20 THE COURT: Mr. Singer, I couldn't hear you.

21 MR. SINGER: Hello?

22 THE COURT: Could you make your appearance again?

23 MR. SINGER: Yes.

24 THE COURT: Yes, go ahead.

25 MR. SINGER: Daniel Singer. I'm here for what is

FOREIGN ECONOMIC INDUSTRIAL BANK; LARISA IVANOVNA MARKUS

7

1 commonly referred to as the LM Entities, and the Protax  
2 Entities.

3 THE COURT: Okay.

4 MR. WORMS: Hello?

5 THE COURT: Mr. Worms? Mr. Worms, are you there?

6 MR. WORMS: -- 15 proceedings.

7 THE COURT: I'm sorry, I couldn't hear.

8 MR. WORMS: Hello?

9 THE COURT: Mr. Worms, could you make your appearance  
10 again?

11 MR. WORMS: Yes. Yes, Your Honor.

12 THE COURT: Yes, go ahead. Make your appearance.

13 MR. WORMS: Victor A. Worms appearing for the debtor,  
14 Larisa Markus, and the bank, but only in reference to the  
15 Chapter 15 proceeding, only the Chapter 15 proceeding, Your  
16 Honor.

17 THE COURT: Did you not file an appearance in the  
18 adversary proceedings?

19 MR. WORMS: I -- I'm not -- no, Your Honor, and I made  
20 it clear to Mr. Marks in a written submission that I would not  
21 be appearing for -- in the adversary proceeding. I was not  
22 retained, and I have no authority or --

23 THE COURT: Okay.

24 MR. WORMS: -- authorization to act in connection with  
25 the adversary proceedings, Your Honor.

1 THE COURT: All right. That's fine. Thank you very  
2 much, Mr. Worms.

3 All right. The case -- the cases, plural, are  
4 scheduled for case management conferences today. I had  
5 previously ordered that status reports be filed, and I received  
6 three that I've reviewed. I have Mr. Marks' April 2, 2020  
7 letter in both Chapter 15 cases. I have from that same date,  
8 April 2, I have Mr. Singer's letter regarding all of those  
9 cases, and then today, there was an additional filing by Mr.  
10 Singer, April 6th, 2020 letter from Mr. Singer with further  
11 information. So I've reviewed all of those.

12 Let me -- I think both Mr. Marks' letter, and Mr.  
13 Singer's letter, long letter, first request that discovery  
14 continue to be stayed. There's a disagreement whether that  
15 should be for four weeks or six weeks, 30 days that Mr. Marks  
16 has asked for in his April 2 letter, 30 days while settlement  
17 discussions go on, and Mr. Singer's April 2 letter asked for a  
18 longer period than that.

19 First, Mr. Marks, is there any update that you wish to  
20 make other than what's included in your April 2 letter?

21 MR. MARKS: Well, Your Honor, on Friday, as the Court  
22 may or may not know, Judge Liman essentially affirmed the  
23 sanctions order and the fees order, he affirmed for the most  
24 part, and then remanded two issues for Your Honor which we're  
25 prepared to discuss today, and we only got the decision, a



1 50-some page decision late in the afternoon on Friday, so we  
2 did not -- have not submitted that yet to the Court.

3 MR. WORMS: Your Honor?

4 THE COURT: And I did receive the opinion -- hold on,  
5 Mr. Worms. I did receive and review Judge Liman's decision, so  
6 it is a lengthy opinion. I want to review it further, but I  
7 will do that.

8 Mr. Marks, is there anything else that you want to  
9 update the Court on?

10 MR. MARKS: Well, we do want to proceed, Your Honor,  
11 before Your Honor on the issues for remand. I'm prepared to  
12 discuss our thinking on that now, or we can do that at some  
13 later time after Your Honor has had a chance to review the  
14 opinion.

15 MR. WORMS: May I respond briefly, Your Honor?

16 THE COURT: We'll come -- we will talk about that.  
17 No, just wait a second, Mr. Worms. We will discuss further  
18 proceedings in light of the remand from Judge Liman. We'll  
19 come to that a little later in the hearing.

20 Other than the issue of sanctions against Mr. Worms,  
21 are there any other issues that you wish to update, Mr. Marks?

22 MR. MARKS: No, I think our letter of April 2nd lays  
23 out what we think the Court asked us to do. I don't see a need  
24 to rebut Mr. Singer's letter. We could just proceed as Your  
25 Honor sees fit.

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1 THE COURT: Okay. Mr. Singer, is there anything you  
2 wish to update further?

3 MR. SINGER: No, I think there's no update on  
4 settlement. I mean, I am waiting for Mr. Heinz's (ph.) review  
5 of the agreement as I said in my letter, and again if something  
6 comes up that I feel I need to respond to in addition, I will  
7 do so.

8 I mean, I didn't want to go into tremendous detail  
9 about restrictions that would be in place regardless for doing  
10 discovery at this time. I think to a large extent, that's  
11 obvious to everybody, but if it becomes necessary, I'll  
12 elaborate more on that and other details as it becomes  
13 necessary in this phone call.

14 THE COURT: Okay. Mr. Worms, what did you want to  
15 add?

16 MR. WORMS: A few things, Your Honor. With respect to  
17 the district court's decision, it specifically found that the  
18 bankruptcy court held me in criminal contempt, and it vacated  
19 that portion that --

20 THE COURT: No, it didn't. No.

21 MR. WORMS: I'm sorry, Judge?

22 THE COURT: Go ahead. No, go ahead. Go ahead, Mr.  
23 Worms.

24 MR. WORMS: Yes, Judge, because I had a chance to  
25 read, and reread the district court's decision. So one, it

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1 found that I was held in criminal contempt in violation of my  
2 constitutional rights by the bankruptcy court. It also found  
3 that the bankruptcy court could not impose sanctions on me  
4 under Rule 37 of the Federal Rules of Civil Procedure. What it  
5 did do is remand to determine to the extent which the Court  
6 could act pursuant to its inherent authority, which as the  
7 Court knows, is a much more circumscribed scope because this is  
8 not an Article III court.

9 I have today filed an appeal with the Second Circuit  
10 of Judge Liman's decision, specifically relating to the issues  
11 of the inherent authority, although the nature of the appeal is  
12 much broader in scope but the central point, Your Honor, and  
13 it's going to become central when we get to the Second Circuit,  
14 is the scope of an Article I court is it -- co-extensive with  
15 an Article III court, in respect to inherent authority.

16 So Mr. Marks' statement that the Court essentially  
17 affirmed, is not a fair statement because it was a specific  
18 finding by the district court that I was held in criminal  
19 contempt in violation of my due process right, and furthermore  
20 that the predicate which Mr. Marks argued for his legal fees  
21 which is Rule 37, does not apply to me because I'm a nonparty,  
22 and Rule 37 only applies to parties, which I'm not.

23 So I am not going to waste the Court's time going over  
24 all the details of Judge -- the district court's decision. I  
25 just wanted to highlight those two portions as being fairly

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1 salient, and also to advise the Court that I did file a notice  
2 of appeal with the Second Circuit today.

3 THE COURT: All right. I disagree with a lot of what  
4 you've said but now is not the time to deal with it, other than  
5 one point. Judge Liman remanded the matter to me, and  
6 consequently I do not believe there's a final decision  
7 appealable to the Second Circuit, but you'll have to deal with  
8 the Second Circuit about that.

9 In any event, I conclude that the matter has been  
10 remanded to me and that I have jurisdiction over it, and will  
11 go forward on remand from Judge Liman.

12 I think your recitation of the portion of his decision  
13 with respect to contempt is entirely inaccurate.

14 MR. WORMS: Judge --

15 THE COURT: And so, I am going to schedule -- no,  
16 stop, do not interrupt -- I'm going to schedule further  
17 proceedings with respect to the remand from Judge Liman.

18 You also have a motion to withdraw that's pending, Mr.  
19 Worms. I will not deal with the motion to withdraw -- for you  
20 to withdraw as counsel until the sanctions issues have been  
21 resolved by me. So we're going to -- let me say right now,  
22 your motion to withdraw is denied without prejudice. I will  
23 schedule further proceedings on remand from the district court.  
24 I do not believe that it is appealable to the Second Circuit.  
25 If you think that I am improperly going forward with matters

FOREIGN ECONOMIC INDUSTRIAL BANK; LARISA IVANOVNA MARKUS 13

1 before me on remand, you'll have to take that up either with  
2 Judge Liman or with the Second Circuit. We will come out of  
3 today's hearing with a schedule to go forward on the issues as  
4 to which Judge Liman has remanded the matter.

5 MR. WORMS: All right.

6 THE COURT: I do have --

7 MR. WORMS: I do have on -- one point, Your Honor --

8 THE COURT: -- some other questions, let me deal with  
9 right now.

10 No, not yet, Mr. Worms. I will tell you when you may  
11 speak.

12 One of the other issues that I do want to raise, a  
13 question that I want Mr. Worms to address is the other matters  
14 that are currently on appeal in the district court that I  
15 believe were on appeal before different judges.

16 Mr. Marks' April 2nd letter on pages 5 -- on page 5,  
17 he has a chart on pending appeals. The sanctions order, and  
18 the attorney's fee order were both pending before Judge Liman,  
19 and he issued his ruling and remanded the matter, but it  
20 doesn't address the three, four, five, and six in the chart on  
21 page 5 of Mr. Marks' April 2nd letter.

22 And Mr. Worms, are you counsel on those appeals? I  
23 believe you were the one who appealed the turnover order in the  
24 Markus case. I believe you appealed. That's items three and  
25 four in Mr. Marks' letter, and it lists two other matters, as

1 well, as to which appeals are pending.

2 Mr. Worms, can you tell me what other appeals do you  
3 have pending in the district court before different district  
4 judges?

5 MR. WORMS: Sure, Your Honor. I only have one appeal,  
6 and that is the appeal of the turnover order. That is before  
7 Judge Torres. I have already, and on a timely basis, submitted  
8 my appellate brief. There have been a series of extensions and  
9 adjournments requested and granted at the request of both Mr.  
10 Marks, who is -- I think he's taken two extensions already, and  
11 Mr. Singer also has a separate appeal before a separate judge  
12 on the turnover order. I believe he's taken three extensions.  
13 So I'm the only one who filed a brief timely, Judge, and has  
14 not taken an extension yet.

15 THE COURT: All right. Mr. Singer, do you have -- are  
16 your appeals pending before different judges or also before  
17 Judge Torres?

18 MR. SINGER: There's two different appeals. One is  
19 the turnover order which is before Judge Torres, and the other  
20 one is discovery before -- his name is escaping me now,  
21 Judge -- Judge Woods, Gregory Woods, and if Mr. Worms is  
22 correct, we have sought extensions from Judge Torres. One is  
23 still pending. I haven't received a response. Frankly, I  
24 assume it's granted at this point because it's past the time,  
25 and we -- on consent. We have another one before Judge Woods

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1 where discovery, which I will be -- discuss this with Mr. Marks  
2 outside of this conference, but I will be filing an extension  
3 for that, as well.

4 And this is -- there's two issues -- I don't want  
5 to -- it's already in letters I've submitted to the Court, so I  
6 don't waste the Court's time. I mean, there's two issues for  
7 this extension. One has been settlement, and the other one has  
8 been the coronavirus issue, which I am sure everybody's very  
9 familiar with. So I don't want to waste the Court's time on  
10 that, but that's effectively the status at this point.

11 MR. MARKS: Judge, it's Mr. Marks. I'm back. I hit  
12 the --

13 THE COURT: Yes.

14 MR. MARKS: I meant to hit the -- sorry about that, I  
15 hit the wrong button.

16 THE COURT: Go ahead. Do you want to address the  
17 issue of the still pending appeals?

18 MR. MARKS: Yeah, what Mr. Worms said, Your Honor, was  
19 partly correct but partly not quite correct. Both Ms. Markus  
20 and the LM, Protax Entities filed appeals of the turnover  
21 order. So they are -- the appeals are now both before Judge  
22 Torres, and as Mr. Worms stated, he did file his appellate's  
23 brief on time.

24 Mr. Worms opposed consolidating the two appeals, even  
25 though they concern the same order and essentially the same

1 issues, and then Mr. Singer began to ask for extensions.

2 Our position was that we wanted to file a consolidated  
3 brief that would respond to both Mr. Worms' appeal, and Mr.  
4 Singer's appeal. So each time Mr. Singer asked for an  
5 extension, we asked for a similar extension, so that we would  
6 be able to coordinate the filing of one response to both  
7 appeals. So that's why that has been delayed.

8 Mr. Singer, I believe, requested three extensions. He  
9 just requested one recently that the Court hasn't ruled on. I  
10 don't think it's ruled on it, but I think we assumed that it  
11 would be granted because of the situation. So as soon as Mr.  
12 Singer files his brief, it's our intent to file one brief, file  
13 it in -- well, one copy in one case, one copy in the other  
14 case, so that Judge Torres can rule.

15 Alternatively, we're ready to -- at this point because  
16 of the delay, we're ready to file our brief in response to Mr.  
17 Worms' appeal, and we'll deal with Mr. Singer's appeal as it  
18 comes fit.

19 And on the discovery --

20 THE COURT: Am I correct that Judge -- no, wait just a  
21 second. Am I correct that Judge Torres denied a stay of the  
22 turnover order?

23 MR. MARKS: I don't believe that -- I'm -- I don't  
24 recall.

25 MR. WORMS: Can I interject, Your Honor?



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1 THE COURT: I believe remember reading the copy of --  
2 just a second -- I believe I recall, maybe it's I'm mistaken  
3 about this but I think that Mr. Worms had sought a stay of the  
4 turnover order in the Judge Torres, in an order entered on the  
5 docket, denied that motion. Am I incorrect about that?

6 MR. WORMS: Judge, let me respond to that, if I might?  
7 There was a motion --

8 THE COURT: Go ahead, Mr. Worms.

9 MR. WORMS: Thank you, Your Honor. There was a motion  
10 made prior to the transfer of the monies from Mr. Singer's  
11 account to have a stay of the Court's order because the Court's  
12 order directed Mr. Singer to transfer the money to the account  
13 of the foreign representative's counsel. So that motion for a  
14 stay of that transfer, that was what was denied, Judge, and the  
15 money was subsequently --

16 THE COURT: Thank you, Mr. Worms.

17 MR. WORMS: -- transferred to Mr. Marks's account, as  
18 I understand it.

19 MR. SINGER: And I'll just agree that --

20 THE COURT: Okay.

21 MR. SINGER: -- because I was the one doing the  
22 transferring, I will say it was transferred as I had set forth  
23 in my letter before --

24 THE COURT: Just stop for a second. Hold on, Mr.  
25 Singer. Mr. Singer, I should've said this at the start. So

1 with our hearing today, and actually with all of the telephone  
2 hearings that the Court is conducting, we're using Court  
3 Solutions, which you're all called into. The hearing is being  
4 recorded by Court Solutions. At the end of each day, they  
5 email MP3 files to the Court, and if anyone wishes to order a  
6 transcript, they may do so in the normal manner from the Court.  
7 So the Court will have the MP3 files.

8 One of the things that's very important with all of  
9 our telephone hearings is that before each of you speaks, you  
10 identify yourself on the record, so it can be clear who was  
11 speaking.

12 Mr. Singer, you had started to speak without  
13 identifying yourself. So that's just a reminder to everybody.  
14 It's sometimes a little hard to remember that but before each  
15 of you responds to any questions or addresses anything to the  
16 Court, even though it may seem repetitive, you need to  
17 specifically identify yourself for the record. I should've  
18 said that earlier. Okay.

19 MR. SINGER: So my apologies, Your Honor.

20 THE COURT: All right.

21 MR. SINGER: Sorry. May I speak?

22 THE COURT: Quite all right -- quite all right.

23 MR. SINGER: With that understanding, may I speak?

24 THE COURT: Yes, go ahead.

25 MR. SINGER: Okay. So I just was saying briefly,

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1 so -- and I set forth in my April 2nd letter, the transfers  
2 were made timely, in fact, slightly ahead of time with -- from  
3 my account, and also from the 550 Park Avenue account, and it's  
4 our position was that was the end of the turnover, and  
5 regardless -- and there was no -- and as far as my  
6 recollection, though I haven't reviewed the document, as Mr.  
7 Worms stated, was that the turnover was denied -- I mean, the  
8 stay was denied, and that's why the transfers went forward.

9 THE COURT: All right. From reading the  
10 correspondence from Mr. Marks and Mr. Singer, it does appear to  
11 me that there remains a dispute about the scope of the turnover  
12 obligations by Mr. Singer, or Mr. Singer's clients. I'm not  
13 going to resolve those today. I certainly agree to putting  
14 further litigation on hold for 30 days while the parties try  
15 and complete a settlement.

16 Let me make a couple of comments here. So with  
17 respect to any property that remains subject to dispute with  
18 respect to the turnover order, I think there are a couple of  
19 issues that clearly arise. The recognition order in the Markus  
20 case was entered on April 1, 2019, and it's ECF docket number  
21 29.

22 With respect to the separate freeze order that Judge  
23 Vyskocil had entered, I didn't note the ECF docket number but  
24 the order was entered in 2019. Mr. Marks, in his  
25 correspondence certainly has taken the position that any

FOREIGN ECONOMIC INDUSTRIAL BANK; LARISA IVANOVNA MARKUS 20

1 transfers made of property of the debtor after the recognition  
2 order on April 1, 2019 is void, again I'm not ruling today, I'm  
3 just noting the position taken by Mr. Marks with respect to the  
4 recognition order, and I think in my turnover order, I  
5 specifically recognize -- I think I specifically recognized,  
6 and did state that any transfer would be void after the -- and  
7 I'm not altering what I've already ruled, so that certainly  
8 raises questions that may have to be further addressed in  
9 subsequent decisions.

10 With respect to the issue about any fees that were  
11 paid to -- and I think this specifically focuses on Mr. Singer  
12 for now because that's what's addressed in the correspondence,  
13 but it could equally relate to fees paid to Mr. Worms after the  
14 date of the recognition order. The automatic stay is triggered  
15 upon recognition.

16 I would call to -- with respect to attorney's fees, I  
17 would call to counsel's attention the decision in the Southern  
18 District of New York in SEC v. Princeton Economic  
19 International, Ltd., 84 F.Supp 2d 443 (S.D.N.Y. 2000). It was  
20 an opinion that Judge Richard Owen, who has since passed away  
21 but he specifically ordered a turnover of funds that had been  
22 paid to attorneys and I won't further go into an analysis of  
23 the opinion. If the issues -- I raise that now because there's  
24 obviously a dispute between certainly Mr. Singer and Mr. Marks  
25 as to whether or not fees that were paid to counsel would have

1 to be turned over. And in this SEC v. Princeton Economics  
2 International, Ltd., that is certainly an issue that Judge Owen  
3 addressed in his written opinion. He also -- he cites other  
4 cases, including a decision by then District Judge Denny Chin,  
5 who is now a judge on the Second Circuit in another case.

6 So I just call that opinion to counsel's attention, if  
7 the Court -- if it's necessary to have further proceedings with  
8 respect to the payment of attorney's fees, that -- or any fees  
9 that were certainly paid after the recognition order, and  
10 we'll -- I'm not going to deal with that today, other than to  
11 point out that decision, and note the difference of opinion.

12 So to be clear, and I would ask Mr. Marks to prepare a  
13 proposed order. I really want to avoid any issues about what  
14 the Court's ruling, et cetera. So prepare a proposed order  
15 that provides a thirty-day stay on discovery, and other  
16 litigation deadlines in the cases, and this would apply to both  
17 the Chapter 15 cases and the two adversary proceedings.

18 And I'm going to require written status reports --  
19 obviously, I don't want to know the details of the settlement  
20 positions of the parties, but certainly do want to know whether  
21 a settlement is reached. So I am going to require written  
22 status reports on or before Friday, May 7, 2020, at 5 p.m., or  
23 sooner if a settlement has been reached.

24 And let me -- I do want to ask, the only thing I want  
25 to ask about the settlement problem, and I want to address this

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1 to Mr. Marks, in Mr. Singer's letter, he indicates that Dentons  
2 is counsel for the foreign representatives with respect to  
3 pursuing the settlements, and is that accurate, Mr. Marks?

4 MR. MARKS: It is accurate, Your Honor, that there's  
5 an attorney from Dentons' office in Moscow, although he might  
6 be outside Moscow now, has been the drafter of the settlement  
7 agreement, and he has had I think two conference calls with Mr.  
8 Singer, one most recently. However, it's not accurate to say  
9 that we're not in -- well, while he's the drafter of it, our  
10 law firm is involved with the settlement. We're aware of the  
11 outstanding issues. We're aware of the current draft. There's  
12 been delays. I'm not going to lay blame on anybody. I don't  
13 think that helps the Court, but as we sit here today, there's  
14 no settlement. There's still substantial issues that are out  
15 there, and our client instructed us that we should be given  
16 another 30 days, and if there's no settlement, then they want  
17 to go forward.

18 MR. SINGER: Your Honor, this is Daniel Singer. May I  
19 respond --

20 THE COURT: Okay.

21 MR. SINGER: May I respond?

22 THE COURT: So what I would ask is -- go ahead, Mr.  
23 Singer. Go ahead.

24 MR. SINGER: So I differ with Mr. Marks, and again  
25 I've been primarily involved in this, there aren't any

1 substantive issues that are still at sync (ph.). What are at  
2 issue at this point are mechanical issues, and it was an  
3 extremely productive conversation that was had last Monday.  
4 The complication had arisen, how to get -- certain  
5 misunderstandings of how things worked here versus in Russia,  
6 and I think we largely resolved a lot of those, and where we  
7 left it with Mr. Hinds was he was going to consult with his  
8 client, and get me a redraft, but it's not really substantive  
9 issues, they're mechanical, and I think that I just want to be  
10 clear on that. So you know, that's the differing point with  
11 Mr. Marks.

12 THE COURT: Okay. I don't want to -- thank you very  
13 much, Mr. Singer, and it's not my intention to inject myself  
14 into any of the settlement discussions as I may have to be a  
15 finder of fact with respect to disputed issues of fact in the  
16 case.

17 Mr. Singer, in your letter you raised the issue about  
18 mediation. The issue gets complicated here because this is a  
19 multi-jurisdiction, multi-country series of issues. What I  
20 would say is is that if counsel agree, and certainly mediation  
21 can be helpful in many matters, and you can also -- you  
22 obviously can agree consensually upon a mediator.

23 I guess the one thing I want to make clear today is  
24 that I am agreeing to a 30-day pause in litigation while  
25 efforts to reach a settlement are ongoing.

1 Mr. Marks, I want you and Mr. Singer to confer by  
2 telephone over the next few days to work on a proposed schedule  
3 that would kick in, if no settlement is reached within the  
4 thirty-day period.

5 I recognize that the COVID-19 pandemic creates  
6 difficulties for the Court, and for all counsel, and I'm very  
7 mindful of that. I do think that despite the pandemic and the  
8 difficulties it presents, that there are many things that can  
9 move forward if the litigation has to move forward.

10 For example, there's still not been an answer filed.  
11 There's no reason that that can't happen. And with respect to  
12 discovery, some things become more difficult, others there's no  
13 reason that they can't go ahead.

14 So Mr. Singer, and Mr. Marks, you do need to confer by  
15 telephone, and try and reach agreement on a schedule that would  
16 go forward starting in thirty days if no settlement is reached.  
17 I've indicated that I want the written status reports by 5 p.m.  
18 Friday, May 7th, or sooner if there is a settlement reached,  
19 but otherwise it's going to be necessary to move forward.

20 With respect to the turnover disputes, and I -- from  
21 reading Mr. Singer's letter, it appears that a substantial  
22 amount of funds have been turned over, but it's obvious from  
23 reading the correspondence, that there remains a dispute about  
24 whether there are additional funds or assets that are required  
25 to be turned over.



1           So let me ask Mr. Marks first. One of the things --  
2   you know, under current circumstances, I'm certainly prepared  
3   to pause litigation over the turnover of funds that have not  
4   yet been turned over that Mr. Marks, his view is it has to be  
5   turned over, and Mr. Singer's view, it doesn't, but my concern  
6   is there is either -- whether there is a freeze order or other  
7   order in place that would prevent a further transfer of funds  
8   that Mr. Marks contends should be turned over.

9           What I don't want -- what I want to be sure of is,  
10   I'll agree to pause litigation about turnover of funds if the  
11   pause is not used as a basis for any other transfers, whether  
12   it's out of attorney trust accounts or otherwise. Mr. Marks'  
13   position about what are the consequences of the revocation of  
14   the LM Trust, what are the consequences of the recognition  
15   order. I've pointed out to everybody the Princeton Economics  
16   decision by Judge Owen. I just want to be sure that if the  
17   litigation is paused, that the foreign representative is not  
18   disadvantaged because further action to remove funds from this  
19   jurisdiction or from recovery by the foreign representative  
20   occur.

21           Mr. Marks, do you want to address that first?

22           MR. MARKS: Your Honor, this is Mr. Marks, and I  
23   appreciate the opportunity. It is something that we are  
24   concerned about, and in a nutshell, the focus on the money is  
25   that there was approximately 1.3 million dollars that was --

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1 the difference between the money that came from England, which  
2 I'll just -- this is on page 6 of my letter, Your Honor, 5.38  
3 million dollars came from the sale of Ms. Markus's property in  
4 England. Of that, 1.3 million dollars has not been transferred  
5 to us because it was paid out to various people, including the  
6 Protax Entities. That is -- those proceeds were Ms. Markus's  
7 property, and Mr. Bykov has directed after April 1st, 1.378  
8 million of that to go to part himself, and in part to lawyers  
9 and other people, and we want to recover that, and we think  
10 that that falls within your turnover order because it was  
11 property of Ms. Markus.

12 So we know that Mr. Bykov also received a substantial  
13 amount of money from the sale of Ms. Markus's property in  
14 London, which he arranged to have paid to BG Atlantic, which we  
15 think is -- which is an entity which we believe that he  
16 controls, and we think that there should be some assurance by  
17 Mr. Bykov that he's retaining the 1.3 million dollars someplace  
18 in the United States, so that it's not being dissipated.  
19 That's our concern because there's a history, unfortunately, of  
20 dissipation in this case.

21 THE COURT: Okay. Let me just -- and I've opened --  
22 Mr. Marks, I've opened your letter to page 6 and --

23 MR. MARKS: Yes.

24 THE COURT: -- under turnover dispute with Bykov, it  
25 indicates \$1,378,420.92 --

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1 MR. MARKS: Right.

2 THE COURT: -- and listed as Markus -- you paid  
3 proceeds disbursed from LM Trust account. Is it your belief  
4 that those funds, at least were after the recognition order, in  
5 accounts in the United States?

6 MR. MARKS: No doubt about it. They were transferred  
7 after April 1st -- Your Honor, they were transferred, I believe  
8 on March 29th, so therefore they were in the account, and they  
9 had not been transferred out of the LM account as of April 1st.

10 THE COURT: Okay. Mr. Singer, are those funds still  
11 present in the United States?

12 MR. SINGER: The 1.3 million dollars, it's a  
13 multi-tiered question. I mean, no, by Mr. Marks's own  
14 correspondence, I mean, a lot of this money has been spent in  
15 the ordinary course of business. So it's not in the United  
16 States. There is some money that has been frozen. Right now,  
17 there's 231,000 dollars in my escrow account. As you recall,  
18 Your Honor, some accounts were closed, okay, and there's  
19 231,000 dollars in my escrow account for this.

20 Some of that money, I indicated in one of my -- in Mr.  
21 Bykov's affidavit to the motion that about 36,000 dollars in  
22 the LM -- and of that money had been frozen out of an abundance  
23 of caution because that constituted monies that had been  
24 transferred from the sale of the proceeds. So within that  
25 money that has been the "frozen", that 36,000 dollars.

1 I believe that -- and this is something we need to  
2 confirm, I believe that Protax itself also had frozen some  
3 monies after the freezing order went into effect based on the  
4 freezing order. I'd have to confirm the exact amount of that.  
5 I wasn't actually involved in that, counseling at that point.  
6 Rosenberg & Estis was dealing with that at that point.

7 So I think that there's some freeze -- I mean, there's  
8 some monies there. As far as the money that was paid to me  
9 goes, that money has -- it was incurred even -- most -- almost  
10 all of it was incurred prior to the freeze order going into  
11 effect, and the remainder was incurred in -- that money doesn't  
12 exist at this point. So that's why I can say about how much  
13 money is frozen at this time.

14 THE COURT: Mr. Marks, you and Mr. Singer need to  
15 discuss this issue further. As I say, I'm certainly prepared  
16 to pause the litigation for thirty days but in doing so, I'm  
17 only willing to do that so long as funds as to which the  
18 foreign representative claims the turnover was required, are  
19 not further transferred or dissipated.

20 So Mr. Marks, you need to try and see if you can reach  
21 an agreement with Mr. Singer. It may require that he obtain  
22 the information about what funds are where, et cetera. If -- I  
23 mean, I think that a pause in litigation is appropriate, so  
24 long as the foreign representative is not further disadvantaged  
25 by any further transfer of funds. To the extent funds have

1 been transferred properly or improperly in the past, the  
2 foreign representative certainly may well have his rights as to  
3 going after whatever parties received those funds, as to  
4 whether they can be recovered, but the one thing that I want to  
5 be crystal clear about is that a pause cannot be used as a  
6 justification for any further transfer of funds that are  
7 subject to the automatic stay because of recognition, because  
8 they were Larisa Markus' property.

9 So as I say, I'm happy to agree to a thirty-day pause  
10 in litigation but not insofar as it would further disadvantage  
11 the foreign representatives. So Mr. Marks, and Mr. Singer, now  
12 is not the time for me to resolve it. You need to see whether  
13 you can come to an agreement about it. If you can't, and if  
14 Mr. Marks, you wish to proceed in some fashion to either freeze  
15 funds, or obtain the turnover of funds, please notify the Court  
16 in a letter, and we'll promptly schedule further proceedings to  
17 the extent necessary.

18 MR. MARKS: Your Honor, this is Mr. Marks.

19 THE COURT: Mr. Marks, do you want to comment further,  
20 and then I'll give Mr. Singer a chance. Go ahead.

21 MR. MARKS: Yeah, I do, Your Honor. Your Honor, I  
22 appreciate your flagging this. It is an area of concern At  
23 this -- we, I guess delayed pursuing this because of the  
24 settlement but we don't want there to be the risk of further  
25 harm.

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1           The only thing, Your Honor, I would add is when -- if  
2 we need to move forward with this which we can, it's not  
3 difficult for us to file another turnover motion directed at  
4 the 1.3 million, but we would most likely want to take a short  
5 deposition of Mr. Bykov. It would probably be two to three  
6 hours. It would only be focused on the issue of the funds that  
7 would be subject to the turnover. I don't think that it would  
8 require the production of many documents, so there would be no  
9 need for people to go in their offices. Most documents are  
10 electronic anyhow, but I just do want to flag that one issue  
11 for the Court because we would want to get Mr. Bykov's  
12 testimony because as Your Honor knows, we did have some issues  
13 before where amended tax returns were filed on the eve of the  
14 turnover hearing, and we don't want to see something like that  
15 happen again.

16           THE COURT: Mr. Marks, are you still there?

17           MR. MARKS: Yes, Your Honor.

18           MR. SINGER: This is Mr. Singer. May I respond?

19           THE COURT: Mr. Marks, are you there?

20           MR. MARKS: Yes, yes, Judge.

21           THE COURT: Hang on. No, let me -- one of the  
22 issues -

23           MR. MARKS: I'm here.

24           THE COURT: Yeah, let me finish, and then I'm going to  
25 ask Mr. Marks to continue, and then I will give Mr. Singer a

1 chance to respond. One of the issues about the technology, I  
2 have you connected through my computer, and it went to sleep,  
3 and the result was that Mr. Marks, you sort of cut off in the  
4 middle of your remarks. It may well have been recorded but  
5 just so that I have the benefit of it, I would ask you to  
6 repeat it, and then Mr. Singer, I absolutely will give you a  
7 chance to respond.

8 This is as to the issue -- the last that I heard  
9 before you cut off at my end, Mr. Marks, was that you thought  
10 that you needed a short deposition of Mr. Bykov. Is there  
11 something you want to add after that?

12 MR. MARKS: Your Honor again, this is Mr. Marks. Yes,  
13 Your Honor. What I think I was saying was it's not a big deal.  
14 We could file a motion for turnover, which would be directed at  
15 this specific property. We may be able to get some of the  
16 property back directly from the attorneys who have it. We've  
17 been negotiating with the Kingsley -- Mr. Kingsley.

18 However, Your Honor, what we would want would be to I  
19 think take a two-to-three-hour deposition of Mr. Bykov, again  
20 only related to the issue of what's in the turnover motion. In  
21 part, Your Honor, we don't want to have another problem where  
22 there's a story one day, and then it changes. Your Honor may  
23 recall on the eve of the turnover hearing, that Mr. Bykov filed  
24 "amended tax returns" for 550 Park Avenue, and some other  
25 entities, and we'd like to get his testimony down, so that Your

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1 Honor would then be able to rule if there is a dispute. That's  
2 what I was saying, Judge.

3 And it can be done, obviously --

4 THE COURT: Okay. Mr. Singer, go ahead.

5 MR. MARKS: -- remotely.

6 THE COURT: You wanted to respond.

7 MR. SINGER: Okay. This is Mr. Singer --

8 THE COURT: Go ahead, Mr. Singer.

9 MR. SINGER: -- responding. Yeah, so a couple of  
10 issues, Your Honor. So first of all, as I set forth in my  
11 letter, we would be severely prejudiced at this point if we had  
12 to go forward to defend this motion in this current  
13 environment. I'm working remotely. I have some access to  
14 documents, not everything.

15 Mr. Bykov has a compromised immune system for -- I'm  
16 not going to into with the Court, but he is staying durations  
17 that's outside the City of New York. I believe he's somewhere  
18 in the Hudson Valley. And Protax itself has also worked  
19 remotely and has limited access to documents and other  
20 information.

21 So given how severe this motion is, and I would say  
22 this for any motion, but given how severe, my position is that  
23 this -- in all fairness, there's no situation where I can go  
24 forward until things return to some sort of normalacy (sic).  
25 That's number one.



1           Number two, as far as the deposition of Mr. Bykov  
2 goes, again until things get returned to some sort of situation  
3 of normalacy (sic), there's no situation where I could see in  
4 fairness, the deposition of Mr. Bykov going forward.

5           You know, first of all, an in-person deposition is out  
6 of the question in the current environment. I don't think it's  
7 even legal to be quite honest. Number two, a virtual  
8 deposition would be -- I'd be severely prejudiced by having to  
9 defend my client remotely.

10           Number three, and I'm sorry, I have to say this, and I  
11 set it forth in my letter, I find the timing of this request to  
12 be extremely disturbing, and frankly rather shameful. I mean  
13 what is happening here is they could've done this -- first of  
14 all, I don't really believe Mr. Marks thinks he's entitled to  
15 this money because if he did, nobody in their right mind  
16 would've waited six months to try to get over two million  
17 dollars without doing anything. So the logic itself vitiates  
18 their argument.

19           Number two, I mean to bring this up in the current  
20 environment, okay, is just unacceptable to me, and it's  
21 completely improper, and I what think they're doing here is  
22 that they're trying to utilize the Court to get some sort of  
23 leverage in the settlement negotiation, and using the  
24 coronavirus as a way of doing that when we're sort of down in  
25 our defenses.

1           So in the unlikely event that this should go forward  
2 at all, and I would -- and again in my letter, I said it should  
3 not, my position very strongly is it has to wait until we get  
4 to some sort of situation of normalacy (sic) which hopefully  
5 for -- I'm sure everybody agrees on this phone call, will  
6 hopefully happen sooner rather than later, but until that time,  
7 I just can't properly defend any such application of the sort.

8           THE COURT: May I ask you this question, Mr. Singer?

9           MR. SINGER: Uh-hum.

10          THE COURT: Let's assume that Mr. Bykov had in an  
11 account the \$1,378,420.92 that Mr. Marks identifies in his  
12 unpaid six of his April 2 letter, just assume that for a  
13 second. Do you believe that Mr. Bykov should be free to  
14 transfer that money outside the United States to the Caribbean  
15 or someplace else tomorrow?

16          MR. SINGER: Well, I don't -- first of all, to the  
17 best of my knowledge, and again I obviously have no personal  
18 knowledge of this, and I'm not going to go into privileged  
19 communication, but there is no 1.3 million dollars sitting into  
20 an account. By Mr. Marks' own records, okay, that he had  
21 gotten from us, that money had already been sent to various  
22 transfers in the ordinary course of business.

23          So without attempting to brief any arguments on this  
24 phone call, I mean obviously as I've hinted in multiple  
25 letters, one of the "defenses" to this would be it was spent in

1 the ordinary course of business.

2 So this idea that there's some fund sitting around  
3 somewhere is just not the case. As I said, there is some --  
4 there is about \$231,000 in my escrow account, of which some of  
5 it, about 36- was "frozen", okay, but there is the 231, and  
6 that's not going anywhere, that's in my escrow account. That's  
7 not being touched obviously, okay.

8 And then, I believe there was some money that Protax  
9 froze, and I can get a confirmation on how much they have  
10 that's frozen, but beyond that, there isn't this one -- if  
11 there's an idea that somehow there's 1.3 from these proceeds  
12 sitting around somewhere, that's not -- I think I could say,  
13 that's just not the case, even just looking at Mr. Marks' own  
14 correspondence. It was already transferred and spent.

15 THE COURT: Well first off, let me say that I don't  
16 know of any exception to the effect of Section 362 applying  
17 upon the recognition of the foreign main proceeding, which is  
18 what happened, and so I don't know of any ordinary course of  
19 business exception to the automatic stay that applied upon  
20 recognition. I'm not making any determination whether the  
21 funds at issue were or were not subject to the automatic stay  
22 upon the entry of the recognition order on April 1, but it  
23 clearly is an issue.

24 So Mr. Singer, I don't think your statement that well,  
25 of course he could pay money out of it in the ordinary course

1 of business, I don't know of any exception. Perhaps you're  
2 able to brief that issue as a defense to any transfers that  
3 were made after April 1. That's not for the Court to decide  
4 today.

5 What I am directing is -- I understand, Mr. Singer,  
6 that the coronavirus pandemic creates significant problems for  
7 everybody, including the Court. I entered an order in another  
8 matter last week where a deposition of two individuals that I  
9 ordered to be limited to four hours each, go forward, and the  
10 order provided for remote taking of the deposition. Yes, that  
11 presents some issues, I understand that, but the pandemic --  
12 I'm not saying this is what's being engaged in here, the  
13 pandemic and the problems that it creates for the Court and for  
14 the parties can't be used as an excuse to permit improper  
15 transfers of funds.

16 What you, Mr. Singer, and you, Mr. Marks, need to  
17 discuss is whether you can reach an agreement, it may require  
18 you to make some more disclosures, Mr. Singer, about where did  
19 the money go, when did it go, was it after recognition on April  
20 1st? Was there funds of the Markus estate? There's no estate  
21 in a Chapter 15 case, the property in the United States that  
22 would be subject to the stay that came into effect on  
23 recognition.

24 And if you can't reach an agreement, Mr. Marks, you  
25 can address the issue in a letter to the Court before the

1 status letter that I've asked for. I hope that you're all able  
2 to reach a settlement, and I don't doubt that the next thirty  
3 days can best be spent trying to reach the settlement. If Mr.  
4 Marks, you're able to put off this issue of litigating over the  
5 1.378 million dollars while the settlement goes forward, I hope  
6 you're able to do that.

7 But Mr. Singer, just shouting pandemic isn't -- and  
8 the problems that creates, which I acknowledge, cannot be used  
9 as a justification for keeping out of the reach of the foreign  
10 representative, property that is subject to turnover, okay. We  
11 won't dwell on that further now. I'm directing you, Mr. Marks,  
12 and you, Mr. Singer, to have a further discussion about it, and  
13 see whether you can either agree to pause that issue as well  
14 for the thirty days or otherwise, but otherwise, Mr. Singer, it  
15 is not going to -- you know, I will -- we'll have, if we have  
16 to have another telephone hearing, we will, but let's see  
17 whether you and Mr. Marks are able to reach an agreement about  
18 it.

19 So let me see, I have some other notes of questions  
20 that I had that I want to deal with.

21 MR. SINGER: Your Honor, may I respond very briefly,  
22 just one point?

23 THE COURT: Go ahead. First identify yourself on the  
24 record.

25 MR. SINGER: I'm sorry, it's Daniel Singer. I just

1 had one point to highlight.

2 THE COURT: Go ahead.

3 MR. SINGER: Okay. Yeah, so far as -- and I'm not  
4 going to reiterate what I've already said, and it's already --  
5 most of it's in my letter, so I don't belabor the Court with  
6 that, but I will say that as far as where the money has gone,  
7 Mr. Marks knows where this money is, it's actually in his  
8 letter, because he has the transfers outlined, and it's already  
9 been disclosed. So there's no mystery about where this money  
10 has gone. I'm happy -- and again, I'm happy to discuss with  
11 Mr. Marks for any illumination he might like on that but it's  
12 not like at this point there's some sort of mystery to that.  
13 There's been full disclosure.

14 I just had a question and perhaps, and I apologize if  
15 I missed this, when did you want Mr. Marks -- there's a status  
16 report due on May 7th, but when did you want Mr. Marks and I to  
17 report back to you? I'm sorry.

18 THE COURT: What I indicated is that I do want the  
19 written status -- this is separate from this 1.378 million  
20 dollars. There I want the two of you to see whether you can  
21 agree to pause that issue for the next thirty days or not, and  
22 that, one or both of you ought to file a status letter with  
23 respect to just that issue, okay?

24 What I wanted, and what I ordered is I want a written  
25 status report from whoever wants to file one by on or before

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1 Friday, May 7th at 5 p.m., or sooner if the settlement is  
2 reached. That really goes to the entire dispute, and if there  
3 is no settlement, how you move forward. I've directed that the  
4 two of you, Mr. Singer and Mr. Marks, talk about if no  
5 settlement is reached by the what is -- by the end of  
6 thirty-day period, what should be the schedule going forward.  
7 I view that as a separate issue than I do this issue that Mr.  
8 Marks has raised with respect to the further turnover  
9 immediately, okay? I hope that's responsive to your question,  
10 Mr. Singer. It was a fair question.

11 MR. SINGER: I'm sorry, I do. It is. But I want to  
12 be clear, so I want to make sure I understand it. So I'm  
13 sorry, I understand the May 7th letter, but the other letter  
14 where we're supposed to update the Court on what's going to  
15 happen with the schedule if it doesn't succeed with settlement,  
16 and the one point -- if we need to involve the Court with the  
17 1.3, as you said, with the turnover issues, when do you want  
18 that filed with the Court?

19 THE COURT: I want the two of you to confer, and I  
20 want you to deal specifically with the issue of the turnover of  
21 the 1.378 million, and if Mr. Marks wants to go forward with  
22 further proceedings promptly, not after thirty days, the letter  
23 ought to indicate that, and if we have to have a further  
24 telephone conversation, we will.

25 MR. SINGER: Okay.

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1 THE COURT: It seems to me that the issues of the  
2 global settlement are a broader set of issues than just the  
3 1.378 million dollars. Is that clear, Mr. Singer?

4 MR. SINGER: Yes, and I will also say in the letter, I  
5 mean without going into detail of the settlement, that none of  
6 that -- and this is the problem I'm having with this, and I  
7 respect what Your Honor is saying, and I understand it, is that  
8 this not part --

9 THE COURT: Now you're being repetitive, Mr. Singer.

10 MR. SINGER: I apologize.

11 THE COURT: Mr. Singer?

12 MR. SINGER: I apologize.

13 THE COURT: Mr. Singer, okay, you can stop now. I  
14 think I've been clear about what I want. I don't want to hear  
15 any further argument about it.

16 MR. SINGER: Uh-hum.

17 THE COURT: Mr. Marks --

18 MR. MARKS: Your Honor?

19 THE COURT: -- are there other issues that we need to  
20 take up today?

21 MR. MARKS: Your Honor, just on this issue, may we  
22 have until Friday, Your Honor, for Mr. Singer and I to meet and  
23 confer, and to report back to Your Honor on the -- what I will  
24 call the 1.3 million dollar issue?

25 THE COURT: Absolutely.



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1 MR. MARKS: Okay. Your Honor, I just --

2 THE COURT: And I don't expect the two of you to meet  
3 other than by telephone.

4 MR. MARKS: No, absolutely, Your Honor. I just want  
5 to say one thing, all of us are affected by the pandemic, okay?  
6 We put in our letter about that, but you know --

7 THE COURT: Mr. Marks? Mr. Marks?

8 MR. MARKS: Yeah.

9 THE COURT: Mr. Marks? Mr. Marks?

10 MR. MARKS: Yeah.

11 THE COURT: I don't want to hear any more about the  
12 pandemic, okay?

13 MR. MARKS: Fair enough, Judge.

14 THE COURT: Okay. Are there other issues that I need  
15 to take -- so you're going to prepare the -- a proposed order  
16 for the thirty-day pause.

17 MR. MARKS: Yes, Your Honor.

18 THE COURT: Okay. Just so we get that clear, filed on  
19 the record. There's no delay in that. You'll do that within  
20 the next couple of days. I want to see that, okay?

21 MR. MARKS: I don't think Mr. -- well, I will work  
22 with Mr. Singer on it because I understand the issues with Mr.  
23 Worms are not going to be subject to that stay order, right,  
24 Your Honor? I'm sorry, you --

25 THE COURT: What is it that you intend to proceed?

1 No, Mr. Worms, we're going to deal with in a couple -- in a  
2 minute, Mr. Marks, a schedule for going forward on the issues  
3 on remand. That's not subject to this thirty-day pause.

4 MR. MARKS: Fair enough. So then I will confer with  
5 Mr. Singer on it. I don't think that there's -- I don't  
6 believe that there's anything, I'll double-check, but I don't  
7 think there's anything that we've set forth in our letter that  
8 would impact Mr. Worms, but we'll -- I'll check that, Your  
9 Honor.

10 THE COURT: Okay.

11 MR. MARKS: I understand what Your Honor wants me to  
12 do. So I think the answer to Your Honor's question is we'll  
13 submit a proposed stay order to Your Honor in the next couple  
14 days. We will have a proposed order to Your Honor on what to  
15 do after thirty days, if it doesn't settle. We'll have that to  
16 Your Honor by I think May 7th, and Mr. Singer and I will report  
17 back to the Court by Friday where we stand on the 1.3 million.

18 THE COURT: Okay. All right. Now let's deal with the  
19 issues on remand from Judge Liman's decision of last Friday.  
20 On that score, Mr. Marks, and Mr. Worms, the two of you need to  
21 confer by telephone, and try and reach an agreement on the  
22 schedule for this Court to go forward on the issues on remand  
23 from Judge Liman.

24 On that score, the schedule should include one  
25 additional filing by each of you. You should agree on the

1 dates, addressing the issues that Judge Liman has sent back to  
2 this Court on remand.

3 If you're unable to reach an agreement on that  
4 schedule by this Friday, and it is not subject to the thirty-  
5 day pause, you can each submit written proposed schedules by 5  
6 p.m. Friday, and I will consider each of those, and enter an  
7 order with the schedule.

8 So again to be clear, on the issue -- on the question  
9 of the issues on remand from Judge Liman, with respect to  
10 sanctions for contempt, and attorney's fees to Mr. Marks' firm,  
11 you are to confer -- the two of you are to confer and seek to  
12 reach an agreement on the schedule that will apply. The  
13 schedule should include one additional filing by each of you.

14 And in terms of a hearing date, after I receive -- I  
15 will set a further hearing after seeing the proposed schedule.  
16 The proposed schedule can leave open a date for a telephone  
17 hearing on the issues on remand.

18 Mr. Marks, do you understand that?

19 MR. MARKS: This is Mr. Marks. Yes, Your Honor.

20 THE COURT: Okay. Mr. Worms, do you understand that?

21 MR. WORMS: I understand what the Court said, but I  
22 have one issue if I might raise it, Judge, and that has to do  
23 with the additional filing. As Mr. Singer indicated, and I am  
24 not seeking to suggest that the pandemic can be used  
25 prophylactically, but I am at a disadvantage, Your Honor,

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1 because in order to make a substantive filing, I need access to  
2 a law library. I usually use the NYU Law School Library, where  
3 I went to school, and I also have documents in my office which  
4 I will need access to.

5 So I hope the Court, and I hope Mr. Marks will give  
6 some consideration to that in whatever schedule is proposed to  
7 the Court because I am at a disadvantage by my inability to  
8 have access to a functioning law library.

9 THE COURT: Do you have an account with Lexis or  
10 Westlaw?

11 MR. WORMS: I have online access, Judge, but I am from  
12 the old school, and we research initially by books. I go to  
13 the library at NYU. I sit there. I research, Judge. It is  
14 how I've done it all my life as a lawyer. I understand that  
15 the Court wants to move ahead, and I'm not seeking to delay  
16 that, Judge, but I do feel I am at a disadvantage by virtue of  
17 my inability to access a law library.

18 So I will leave it to the Court. I understand --

19 THE COURT: Mr. Worms?

20 MR. WORMS: If I might, Your Honor, I'm not --

21 THE COURT: Mr. Worms, do you have -- Mr. Worms,  
22 please answer my question. Do you have an account with Westlaw  
23 or Lexis, yes or no?

24 MR. WORMS: I do not.

25 THE COURT: With neither of them?

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1 MR. WORMS: I do not, Judge.

2 THE COURT: Okay. Well, you and Mr. Marks will confer  
3 on the schedule, and if you can't agree, you can submit  
4 separate letters dealing with it, and I will take those into  
5 account in setting a schedule.

6 MR. WORMS: May I raise one other issue?

7 THE COURT: Anything else on the issue of -- go ahead.

8 MR. WORMS: This is Mr. Worms. Your Honor, I did have  
9 occasion to read the Court's transcript from the July 4th  
10 hearing in the adversary proceeding where you indicated that  
11 given the settlement posture of the case, you would not be  
12 disinclined to entertain a motion to vacate as respect to the  
13 orders that are the predicate for the sanctions and legal fees.  
14 I just want to know, is the Court still inclined to entertain a  
15 motion to vacate or is the Court not so inclined, Judge?

16 THE COURT: I don't know what was said on that  
17 transcript. I don't have it in front of me. If you have a  
18 position about it, Mr. Worms, put it in writing, and I'll  
19 consider it.

20 MR. WORMS: Okay. Very good, Your Honor. Thank you.

21 THE COURT: Okay. But the only other thing I would  
22 ask one of my law clerks who, they're on the phone, is with  
23 respect to Mr. Worms' motion to be relieved as counsel, one of  
24 you can prepare an order that denies that motion without  
25 prejudice --

1 MR. WORMS: Can I ask one --

2 THE COURT: -- and I've indicated the reasons that --  
3 no, just stop, Mr. Worms. I'm denying the motion without  
4 prejudice because the Court has been directed by the district  
5 court to address issues on remand from Judge Liman. I would  
6 add additionally, that Mr. Worms is counsel of record on an  
7 appeal of the turnover order that's pending before Judge  
8 Torres, and until that appeal is resolved, I will not relieve  
9 Mr. Worms as counsel of record for Ms. Markus in the Chapter 15  
10 case before me.

11 So an order will be prepared by one of my clerks.  
12 I'll review it, and I will enter an order on the docket with  
13 respect to that motion to be relieved.

14 Mr. Worms, what else did you want to say?

15 MR. WORMS: Judge, and this -- the issue I want to  
16 raise is, Judge, my motion to be relieved, or to withdraw, goes  
17 to the issue of payment. So the Court is suggesting that I  
18 should work for free, and I should be an indentured servant  
19 here with no compensation until such time as the appeal is  
20 resolved before Judge Torres. I think that's particularly  
21 unfair to me, Judge.

22 Mr. Marks gets paid. Mr. Singer gets paid. I have to  
23 work, essentially like a slave with no compensation, and I made  
24 a motion to the Court specifically because I'm not being paid,  
25 and you've just said Your Honor, that I am going to stay on

1 this case until such time as Judge Torres resolved the trust  
2 appeal. I think that would obligate me, not only to write the  
3 reply briefs but to argue them all for free, Judge. I think  
4 that is patently unfair, but I guess the double standard  
5 continues to be applied to me, especially being held in  
6 criminal contempt by this court.

7 THE COURT: Have you moved to be relieved as counsel  
8 in the matter before Judge Torres?

9 MR. WORMS: I have not yet done so, Judge, but you've  
10 already denied my motion, and you're going to issue an order  
11 essentially saying I cannot not leave this case until that  
12 appeal is resolved. So it essentially locks me in for the  
13 indefinite future, Judge, as a lawyer without compensation  
14 in -- vis-a-vis of the Thirteenth Amendment which as the Court  
15 well knows, is the very amendment that dealt with the issue of  
16 indentured servitude.

17 THE COURT: Do you intend to move to be relieved in  
18 the appeal before Judge Torres, or you're going to go ahead and  
19 proceed with that case?

20 MR. WORMS: Judge, I don't know what that situation  
21 is. What I would like, Judge, is to have a determination on  
22 the merits of my motion with respect to being withdrawn. I  
23 don't think that the one has to do with the other. You can  
24 still proceed with the remand --

25 THE COURT: I just denied the -- Mr. Worms -- Mr.

1 Worms, I've denied your motion without prejudice.

2 All right. Any other matters for today?

3 MR. WORMS: What about my compensation, Judge?

4 THE COURT: I don't pay you, Mr. Worms, and the fact  
5 that you are counsel of record in this case, as of last Friday  
6 there are issues on remand from Judge Liman specifically  
7 addressing you. I am going to address the issues on remand.  
8 I've directed you and Mr. Marks to try and reach an agreement  
9 on a schedule. If you can't, I will set the schedule.

10 I am not relieving you as counsel of record in the  
11 Chapter 15 case until I have resolved the issues that are on --  
12 that were sent back to me last Friday on remand from Judge  
13 Liman. You are also counsel of record on an appeal from an  
14 order before me, whether that issue -- whether that's affirmed  
15 or overruled, we'll have to wait and see. That's the ruling  
16 for today.

17 Is there anything else you want to lay out on the  
18 record, Mr. Worms? Go ahead. I will give you another one more  
19 minute.

20 MR. WORMS: Nothing further, Judge. I think the  
21 record speaks for itself.

22 MR. MARKS: Your Honor, this is Mr. Marks. May I just  
23 add one other thing?

24 THE COURT: Yes, go ahead.

25 MR. MARKS: Your Honor, I just wanted to add in terms



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1 of Mr. Worms, there's also the Rule 11 motion that's pending  
2 against him. We haven't submitted our reply brief yet. I just  
3 didn't want Your Honor to lose track of that.

4 THE COURT: Okay. I clearly had. All right.

5 Mr. Singer, anything else for today?

6 MR. SINGER: No, Your Honor, thank you.

7 THE COURT: All right. Bear with me just a second,  
8 please. All right. We are in recess until 2 o'clock this  
9 afternoon. Thank you very much all of you.

10 MR. SINGER: Thank you.

11 (Whereupon these proceedings were concluded)

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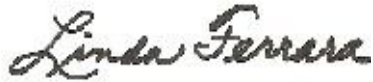
Mr. Worms' motion to withdraw is  
denied without prejudice.

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C E R T I F I C A T I O N

I, Linda Ferrara, certify that the foregoing transcript is a true and accurate record of the proceedings.



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Linda Ferrara (CET-656)  
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Date: April 9, 2020

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